

ORDINANCE NUMBER ___, SERIES 2009

AN ORDINANCE OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, AUTHORIZING AND DIRECTING THE PARKING AUTHORITY OF RIVER CITY INC. ("PARC") TO ISSUE ITS FIRST MORTGAGE REVENUE BONDS, OR BOND ANTICIPATION NOTES, SERIES 2009A TO FINANCE THE ACQUISITION OF THE LOUISVILLE ARENA PARKING GARAGE AND ADDITIONAL CAPITAL EXPENDITURES FOR PUBLIC PARKING AND GARAGE FACILITIES LOCATED IN LOUISVILLE METRO AND TO ISSUE ITS FIRST MORTGAGE REVENUE REFUNDING BONDS, SERIES 2009B TO CURRENTLY REFUND THE OUTSTANDING PRINCIPAL AMOUNT OF THE CITY OF LOUISVILLE PARKING AUTHORITY OF RIVER CITY, INC., FIRST MORTGAGE REVENUE REFUNDING BONDS, SERIES 1997 (COLLECTIVELY, THE SERIES 2009A BONDS AND SERIES 2009B BONDS, THE "2009 BONDS"), AND RELATED EXPENDITURES; AUTHORIZING THE EXECUTION AND DELIVERY OF A SUPPLEMENTAL INDENTURE, A SUPPLEMENTAL LEASE AND A SUPPLEMENTAL SECURITY AGREEMENT NECESSARY TO EFFECT THE ISSUANCE OF SUCH BONDS; AND TAKING OTHER RELATED ACTION AND DETERMINING THE PASSAGE OF THIS ORDINANCE AN EMERGENCY.

Sponsored By: Councilman Jim King

WHEREAS, the Parking Authority of River City Inc. ("PARC") is a Kentucky non-stock, nonprofit corporation, organized and existing under Section 58.180 and Sections 273.161 to 273.390, inclusive, of the Kentucky Revised Statutes, as amended ("KRS"), to act as the agency and instrumentality and the constituted authority of the City of Louisville in the acquisition and financing or refinancing of public projects, including public parking and garage facilities located in City of Louisville and intended for governmental and public purposes, including specifically the purposes of creating or increasing the public recreational, cultural and related business facilities of City of Louisville, and the creation, improvement, revitalization, renewal or modernization of City of Louisville's central business district, all as contemplated by KRS 58.010(1)(b); and

WHEREAS, in the November 7, 2000 General Election, local voters approved a consolidation of the governmental and corporate functions of the City of Louisville, Kentucky (the "City") and the County of Jefferson, Kentucky (the "County") into a single political entity, and pursuant to legislation enacted by the Kentucky General Assembly, the Louisville/Jefferson County Metro Government (the "Louisville Metro") commenced operations effective January 6, 2003, replacing and superseding the governments of the City and the County; and

WHEREAS, Louisville Metro, as successor to the City and the County, PARC is now an agency, instrumentality and the constituted authority of Louisville Metro; and

WHEREAS, PARC is authorized under KRS Chapter 58 (the “Act”), upon authorization and direction of Louisville Metro to issue its revenue bonds, revenue refunding bonds or Bond Anticipation Notes on behalf of Louisville Metro for the aforementioned purposes and may pledge for the amortization of such bonds all revenues derived from the operation of such public projects, including specifically all revenues derived from the leasing of such public projects directly to Louisville Metro, provided that such bonds shall be payable solely from the revenues derived from the public projects and shall not constitute an indebtedness of PARC, Louisville Metro or the Commonwealth within the meaning of the Constitution and laws of the Commonwealth; and

WHEREAS, PARC, as an agency and instrumentality of Louisville Metro, is further authorized under the Act, and particularly KRS 58.060(2), to grant a mortgage and security interest on the public projects acquired or constructed through the application of the proceeds of such bonds and notes; and

WHEREAS, pursuant to Ordinance No. 298, Series 1985, of the City, enacted on November 26, 1985, the Board of Aldermen of the City has heretofore authorized and directed PARC to authorize, execute and deliver (i) a Mortgage and Trust Indenture to The Bank of New York Mellon Trust Company, N.A. as successor in interest to Liberty National Bank and Trust Company of Louisville, Louisville, Kentucky, as Trustee, dated as of December 1, 1985, (the “Mortgage”) of record in Mortgage Book 2346, Page 536, in the office of the County Clerk of Jefferson County, Kentucky, which provides for the issuance and security of the City of Louisville Parking Authority of River City (PARC), Inc. First Mortgage Revenue Refunding and Improvement Bonds, Series of December 1, 1985 (the “Series 1985 Bonds”); (ii) a Supplemental Mortgage and Trust Indenture, dated as of April 1, 1989, of record in Mortgage Book 2769, Page 453, in the office of the County Clerk of Jefferson County, Kentucky, which provides for the issuance and security of the City of Louisville Parking Authority of River City (PARC), Inc. First Mortgage Compound Interest Revenue Refunding and Improvement Bonds, Series 1989 (the “Series 1989 Bonds”); (iii) a Supplemental Mortgage and Trust Indenture No. 2, dated as of August 1, 1991, of record in Mortgage Book 03048, Page 631, in the office of the County Clerk of Jefferson County, Kentucky, which provides for the issuance and security of the City of Louisville Parking Authority of River City (PARC), Inc. First Mortgage Revenue Bonds, Series 1991 (the “Series 1991 Bonds”); (iv) a Supplemental Mortgage and Trust Indenture No. 4, dated as of July 1, 1997, of record in Mortgage Book 4430, Page 671, in the office of the County Clerk of Jefferson County, Kentucky, which provides for the issuance and security of the City of Louisville Parking Authority of River City (PARC), Inc. First Mortgage Revenue Refunding Bonds, Series 1997 (the “Series 1997 Bonds”); (v) a Supplemental Mortgage and Trust Indenture No. 5, dated as of April 1, 2001, of record in Mortgage Book 5972, Page 364, in the office of the County Clerk of Jefferson County, Kentucky, which provides for the issuance and security of the City of Louisville Parking Authority of River City (PARC), Inc. First Mortgage Revenue Refunding Bonds, Series 2001 (the “Series 2001 Bonds”); and (vi) a Supplemental Mortgage and Trust Indenture No. 6 dated as of December 1, 2002 of record in Mortgage Book 07280, Page 0142, in the office of the County Clerk of Jefferson County, Kentucky, which provides for the issuance and security of the City of Louisville Parking Authority of River City (PARC), Inc. First Mortgage Revenue Refunding Bonds, Series 2002 (the “Series 2002 Bonds”) (the Mortgage and Trust Indenture dated December 1, 1985, and the supplements thereto dated April 1, 1989,

August 1, 1991, July 1, 1997, April 1, 2001, and December 1, 2002 are hereafter referred to as the “Indenture”); and

WHEREAS, Article 2 of the Indenture provides that PARC can issue additional Bonds and/or refunding Bonds ranking on a parity as to security and source of payment with the outstanding Bonds upon compliance with certain conditions and restrictions contained in the Indenture; and

WHEREAS, the City and PARC have hereunto entered into (i) a Lease, dated as of December 1, 1985, of record in Deed Book 5551, Page 473, in the office of the County Clerk of Jefferson County, Kentucky, (ii) a Supplemental Lease, dated as of April 1, 1989, recorded in Deed Book 5863, page 887, in the office of the County Clerk of Jefferson County, Kentucky, (iii) a Supplemental Lease No. 2, dated as of August 1, 1991, recorded in Deed Book 6094, Page 622, in the office of the County Clerk of Jefferson County, Kentucky, (iv) a Supplemental Lease No. 3, dated as of July 1, 1997, recorded in Deed Book 6926, Page 001, in the office of the County Clerk of Jefferson County, Kentucky, (v) a Supplemental Lease No. 4, dated as of April 1, 2001, recorded in Deed Book 7649, Page 077, in the office of the County Clerk of Jefferson County, Kentucky, and (vi) a Supplemental Lease No. 5, dated as of December 1, 2002, recorded in Deed Book 08030, Page 0666, in the office of the County Clerk of Jefferson County, Kentucky, to secure the payment of the outstanding Bonds and all bonds issued on a parity therewith pursuant to the Indenture (the Lease dated as of December 1, 1985, and the supplements thereto dated April 1, 1989, August 1, 1991, July 1, 1997, April 1, 2001 and December 1, 2002, are hereinafter referred to as the “Lease”); and

WHEREAS, the Metro Council of Louisville/Jefferson County Metro Government now desires to authorize and direct PARC to issue its First Mortgage Revenue Bonds, Series 2009A (the “Series 2009A Bonds”), on behalf of Louisville Metro, in the aggregate principal amount of up to THIRTY-NINE MILLION AND NO/100 DOLLARS (\$39,000,000.00), plus or minus up to 10% of such principal amount, to finance, in furtherance of the public purposes of the Act, the acquisition of the Louisville Arena Parking Garage and additional capital expenditures for public parking and garage facilities located in Louisville Metro (collectively, the “2009A Project”) and to issue its First Mortgage Revenue Refunding Bonds, Series 2009B (the “Series 2009B Bonds”) on behalf of Louisville Metro, in the aggregate principal amount of up to SEVENTEEN MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$17,500,000.00), plus or minus up to 10% of such principal amount, to currently refund the entire outstanding principal amount of the City of Louisville Parking Authority of River City, Inc., First Mortgage Revenue Refunding Bonds, Series 1997 currently outstanding in the principal amount of \$16,690,000 and related expenditures (collectively the Series 2009A Bonds and the Series 2009B Bonds, the “2009 Bonds”); and

WHEREAS, the acts, conditions and things required by the constitution and laws of the Commonwealth and by the requirements applicable to Louisville Metro to happen, exist and be performed precedent to and in the execution and delivery of this Ordinance for the issuance of the 2009 Bonds have happened, have existed and have been performed in accordance with the terms and provisions hereof.

NOW, THEREFORE, BE IT ORDAINED BY THE METRO COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT, AS FOLLOWS:

SECTION 1. Authorization of 2009 Bonds. To finance the costs of the 2009 Project, PARC, as an agency and instrumentality of Louisville Metro under the Act, is hereby authorized and directed to issue, and the President of PARC is hereby authorized to execute and deliver, the 2009A Bonds, in an aggregate principal amount of approximately THIRTY-NINE MILLION AND NO/100 DOLLARS (\$39,000,000.00), and is authorized to execute and deliver the 2009B Bonds, in an aggregate principal amount of approximately SEVENTEEN MILLION FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$17,500,000.00), in each case, plus or minus up to 10% of such principal amount, including up to 10% plus or minus of any proposed maturity of such 2009 Bonds, such 2009 Bonds to mature or be subject to mandatory sinking fund redemption no later than is permitted by applicable law including the Act, and such 2009 Bonds to bear interest at such rates, payable semiannually, as shall be determined by PARC as a result of competitive bidding (which determination of PARC shall be conclusive as between Louisville Metro and PARC as to such maturities, in the absence of fraud or gross negligence), to be payable out of the revenues derived by PARC under the Lease and the Supplemental Lease hereinafter described, to be secured and to have such redemption, sale and other terms and conditions as are provided in the Indenture and the Supplemental Indenture hereinafter described, and otherwise to be in such form and to contain such terms and conditions as the President of PARC shall approve, such authority being hereby delegated to such President of PARC, his execution of such bonds (which may be by facsimile signature, or the 2009 Bonds may be issued in book-entry or typewritten form as shall be set forth in the Supplemental Indenture hereinafter described) to be conclusive evidence of such approval.

As provided in the Mortgage and in anticipation of the issuance of the Series 2009A Bonds, Louisville Metro and PARC may provide for the interim financing of any portion of the 2009 Project by the sale and issuance of Bond Anticipation Notes (the "BANs"), with an initial term not in excess of five (5) years of the date of issuance, which shall be payable from the proceeds of the Series 2009A Bonds issued pursuant to the Mortgage as provided in Section 2.6 thereof. The Bond Anticipation Notes shall bear interest and shall be payable on the dates and in the years and in the respective principal amounts, not to exceed SEVENTEEN MILLION FIVE HUNDRED THOUSAND and NO/100 DOLLARS (\$17,500,000.00), plus or minus ten percent (10%), as may be determined by the President of PARC.

SECTION 2. Competitive Bidding for the 2009 Bonds. In connection with the issuance of each series of the 2009 Bonds, there are hereby authorized, ratified, confirmed and approved (i) the distribution (electronically or otherwise) to prospective purchasers of such series of the 2009 Bonds of the Notice of Sale, including the Official Terms and Conditions of Sale contained therein and instructions for bidding (the "Notice of Sale"); and (ii) the distribution (electronically or otherwise) of the Preliminary Official Statement in substantially the form attached hereto (provided the Preliminary Official Statement shall be updated and subject to approval by the President of PARC and the Mayor of Louisville Metro and possible further review by the Metro Council, to the extent it is necessary or appropriate to modify any material information concerning Louisville Metro contained therein. The 2009 Bonds of any series authorized hereby will be advertised for sale at a time to be determined to be appropriate by the President and the Secretary or Treasurer of PARC, upon the recommendation of Public Financial

Management, Inc., Memphis, Tennessee (“PFM”), the Financial Advisor for the City and PARC. Each of the 2009 Bonds will be dated on the first or the fifteenth day of the month in which they are sold or advertised for sale. The Mayor of Louisville Metro is hereby authorized and directed to approve, in substantially the form of the Preliminary Official Statement, the Official Statement with respect to each series of the 2009 Bonds prepared by PARC and by Louisville Metro to be furnished to prospective purchasers of the 2009 Bonds. The distribution (electronically or otherwise) of the Official Statement is hereby authorized. The Official Statement, in the form hereby approved, is subject to such further changes, insertions and omissions as the Mayor of Louisville Metro may approve, his execution thereof to be conclusive evidence of such approval; provided, however, if PARC determines that because of current economic conditions that only BANs will be issued at this time, such BANs may be sold as provided by law pursuant to KRS 58.180 by soliciting proposals and negotiating the sale of the BANs as opposed to competitive bidding subject to the approval by the President of PARC.

SECTION 3. Authorization of Supplemental Mortgage and Trust Indenture. The President and the Secretary of PARC are hereby authorized and directed to execute, acknowledge and deliver the Supplemental Mortgage and Trust Indenture No. 7 (the “Supplemental Indenture”), thereby encumbering all or substantially all of the 2009 Project. The Supplemental Indenture shall be substantially in the form attached hereto, with such changes, insertions and omissions as the President of PARC shall approve, whose execution thereof shall be conclusive evidence of such approval.

SECTION 4. Authorization of Supplemental Security Agreement. The Mayor and the Clerk of the Metro Council of Louisville Metro are hereby authorized and directed to execute, acknowledge and deliver the Supplemental Security Agreement No. 6 (the “Supplemental Security Agreement”), whereby Louisville Metro grants, conveys and assigns to The Bank of New York Mellon Trust Company, N.A., a security interest in the collateral described therein. The Supplemental Security Agreement shall be substantially in the form attached hereto, with such changes, insertions and omissions as the Mayor of Louisville Metro shall approve, whose execution thereof shall be conclusive evidence of such approval.

SECTION 5. Authorization of Supplemental Lease. The Mayor and the Metro Council Clerk of the Metro Council, and the President and the Secretary of PARC, respectively, are hereby authorized to execute, acknowledge and deliver the Supplemental Lease No. 6 (the “Supplemental Lease”) whereby Louisville Metro shall lease all or substantially all of the 2009 Project from PARC. The Supplemental Lease shall be in substantially the form attached hereto, with such changes, insertions and omissions as the Mayor of Louisville Metro or the President of PARC, as the case may be, shall approve, the execution thereof to be conclusive evidence of such approval.

SECTION 6. Receipt and Acceptance of Bids for the 2009 Bonds. The President and Treasurer of PARC are hereby authorized and directed to execute and accept the lowest and best bid made on an Official Bid Form (as provided in the Notice of Sale), for purchase of each series of the 2009 Bonds as shall have been recommended by PFM, the Financial Advisor for Louisville Metro and PARC. On the recommendation of the Financial Advisor to PARC, bids shall be submitted electronically (provided all electronic proposals shall be deemed to incorporate the provisions of the paper version of the Official Bid Form). No bid

failing to comply with any of the terms and conditions of the Notice of the Sale shall be given favorable consideration.

SECTION 7. Other Action by PARC. Provided they incur no general or personal liability thereby, PARC's Board of Commissioners, President, Secretary, Treasurer and other officers and agents of PARC are hereby authorized to execute and deliver or distribute such other documents and take such other actions as may be necessary, desirable, convenient or appropriate to implement and carryout the issuance of the 2009 Bonds and the consummation of the other transactions herein contemplated (including, without limitation, publication of sale notices, mailing and other distribution of the Preliminary Official Statement, the solicitation of bids for the 2009 Bonds and the issuance and delivery of the 2009 Bonds).

SECTION 8. Other Action By Louisville Metro. In like fashion, provided they incur no general or personal liability thereby, the Mayor, the Chief Financial Officer and Metro Council Clerk, and other officers and agents of Louisville Metro are hereby authorized and directed to execute and deliver or distribute such other documents and take such other actions as may be necessary, desirable, convenient or appropriate to implement and carry out the issuance of the 2009 Bonds and the consummation of the other transactions herein contemplated.

SECTION 9. Miscellaneous. The provisions of this Ordinance are severable, and if any section, paragraph, clause or provision hereof shall for any reason be declared invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provisions shall not affect the validity of the remainder of this Ordinance. All ordinances, orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed and the provisions of this Ordinance shall prevail and be given effect.

SECTION 10. Public Purpose. The Metro Council has determined that the funds requested in this Ordinance will be expended for a public purpose.

SECTION 11. Effectiveness. This Ordinance shall become effective upon passage and approval.

SECTION 12. Because this ordinance involves PARC bonds the purpose of which is to provide the public parking phase of the ongoing Arena project, pursuant to Rule 7.12 of the Council Rules, the enactment of this ordinance is deemed an emergency.

Kathleen J. Herron
Metro Council Clerk

David W. Tandy
President of the Council

Jerry E. Abramson
Mayor

Approved: _____

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____
Assistant County Attorney